

FILED
IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.

★ DEC 16 2013 ★

BROOKLYN OFFICE

KUNTZ, J.

CV 13

7193

CLERK OF THE COURT

c/o Prose Litigation Office

United States District Court, E.D.N.Y.

225 Cadman Plaza East

Brooklyn, NY 11201

RE: NEW Filing / Civil Action.

FORNEY V. FORNEY, ET. AL.,

12/16/13, M.J.

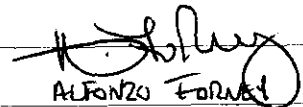
DEAR CLERK:

Enclosed for Filing, please find one (1) ORIGINAL AND TWO (2) COPIES OF A Civil Rights Complaint, pursuant to 42 U.S.C. § 1983, along w/ Supporting IFP Papers/Authorization.

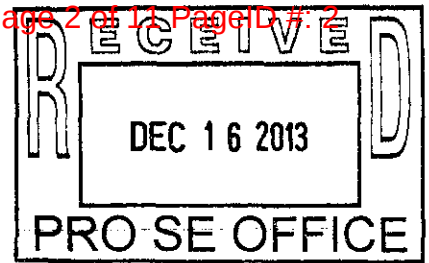
PLEASE NOTE, BECAUSE I HAVE HAD SOME RECENT ISSUES w/ lost mail / CORRESPONDENCE I ASK THAT YOU "KEEP THIS COVER PAGE" (ONLY), AND MAIL IT BACK, SO I'll know you've RECEIVED MY PAPERS.

Thank you in advance for your Consideration Time and Attention in this matter.

Yours ETC.,


ALFONZO FORNEY

PLAINTIFF - Prose



CIVIL RIGHTS COMPLAINT
42 U.S.C. § 1983

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ALFONZO FORNEY, 61513-050,
Full name of plaintiff/prisoner ID#

Plaintiff,

JURY DEMAND
YES X NO

KUNTZ, J.

-against-

DEMETRIOS FORNEY; JEFFREY SOTO;
OFFICER ARRINDELL; KEVIN TELEON; SGT.
BERGAMO; SGT. ZALLO; COMM. JOHN DOE

Enter full names of defendants

[Make sure those listed above are
identical to those listed in Part III.]

CV 13

7193

ELCON, M.J.

Defendants.

I. Previous Lawsuits:

- A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to your imprisonment? Yes (X) No () **ERP**
- B. If your answer to A is yes, describe each lawsuit in the space below (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline.)

1. Parties to this previous lawsuit:

Plaintiffs: ALFONZO FORNEY

Defendants: SAME AS ABOVE, JUST ADDED OFFICER
ARRINDELL.

**2. Court (if federal court, name the district;
if state court, name the county)**

ED OF PENNSYLVANIA

3. Docket Number: CV NO. 13-6290

4. Name of the Judge to whom case was assigned: PETRESE B. TUCKER, Ch. J.

5. Disposition: (for example: Was the case dismissed? Was it appealed? Is it still pending?)

CASE WAS ORDERED CLOSED STATISTICANT BASED ON IMPROPER VENUE.

6. Approximate date of filing lawsuit: CANNOT RECALL (MAYBE 3 WEEK BEFORE DISPOSITION)

7. Approximate date of disposition: OCTOBER 31, 2013

II. Place of Present Confinement: Federal Correctional Institution Allenwood, P.O. Box 2000, White Deer PA 17887

A. Is there a prisoner grievance procedure in this institution? Yes ☒ No ()

B. Did you present the facts relating to your complaint in the prisoner grievance procedure? Yes () No ☒

C. If your answer is YES,

1. What steps did you take? _____

2. What was the result? _____

D. If your answer is NO, explain why not THIS ACTION ARISES OUT OF CONDUCT NOT RELATED TO PRISON CONDITIONS, BUT RATHER THE N.Y.P.D.

E. If there is no prison grievance procedure in the institution, did you complain to prison authorities? Yes () No ☒

F. If your answer is YES,

1. What steps did you take? _____

2. What was the result? _____

III. Parties:

(In item A below, place your name in the first blank and place your present address in the second blank. Do the same for additional plaintiffs, if any.)

A. Name of plaintiff ALFONZO FORNEY, REGISTER NO. 60513050

Address ALLENWOOD Federal Correctional Institution, P.O. Box 2000, WHITE DEER, PA 17887.

(In item B below, place the full name and address of each defendant)

B. List all defendants' names and the addresses at which each defendant may be served. Plaintiff must provide the address for each defendant named.

Defendant No. 1

DEMETRIOS A. FORNEY, (D.O.B. 05/13/1972)
LLKA): 1579 STERLING PLACE APT. NO. RB4
BROOKLYN, NEW YORK 11213

Defendant No. 2

POLICE OFFICER JEFFREY SOTO, SHIELD NO. 29053
77TH PRECINCT, NYPD, 127 UTICA AVENUE
BROOKLYN, NEW YORK 11213

Defendant No. 3

POLICE OFFICER ARINDILL, SHIELD NO.
77TH PRECINCT, NYPD, 127 UTICA AVENUE
BROOKLYN, NEW YORK 11213

Defendant No. 4

POLICE OFFICER KEVIN DELEON, SHIELD NO. 16767
77TH PRECINCT, NYPD, 127 UTICA AVENUE
BROOKLYN, NEW YORK 11213

Defendant No. 5

SERGEANT BERGAMO, SHIELD NO.
LLKA): 77TH PRECINCT, NYPD, 127 UTICA AVENUE
BROOKLYN, NEW YORK 11213.

* SEE ATTACHED 2 MORE DEF'S
REVERSE

[Make sure that the defendants listed above are identical to those listed in the caption on page 1].

* "LLKA" = LAST KNOWN ADDRESS.

DEFENDANT NO. 6:

SERGEANT ZOTTO, SHIELD NO. _____

Lt. 177TH PRECINCT, NYPD, 127 UTICA AVENUE

BROOKLYN, NEW YORK 11213

DEFENDANT NO. 7:

JOHN DOE, COMMISSIONER OF NEW YORK POLICE DEPT. (NYPD).

ONE POLICE PLAZA

NEW YORK, CITY, NEW YORK

IV. Statement of Claim:

(State briefly and concisely, the facts of your case. Include the date(s) of the event(s) alleged as well as the location where the events occurred. Include the names of each defendant and state how each person named was involved in the event you are claiming violated your rights. You need not give any legal arguments or cite to cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. You may use additional 8 1/2 by 11 sheets of paper as necessary.)

CLAIM NO. I: FALSE ARREST AND IMPRISONMENT: (1) PLAINTIFF, ALFONZO FORNEY CLAIMS, ON OR ABOUT MAY 20, 2012, AT APPROXIMATELY BETWEEN 1:00 P.M. AND 3:45 P.M., IN THE COUNTY OF KINGS, STATE OF NEW YORK, EASTERN DISTRICT OF NEW YORK, DEFENDANT, DEMETRIOS FORNEY, ("HEREINAFTER "DEMETRIOS") PLAINTIFF'S HALF-BROTHER, WHILE RESIDING AT 1579 STERLING PLACE, APT. 4B-4, IN THE BOROUGH OF BROOKLYN, EASTERN DISTRICT OF NEW YORK, DID KNOWINGLY PROVIDE FALSE INFORMATION TO NEW YORK POLICE OFFICERS JEFFREY SOTO (HEREINAFTER "SOTO") AND ARRIWELL (FIRST NAME UNKNOWN) (HEREINAFTER "ARRIWELL") WITH MALICIOUS INTENT, THAT PLAINTIFF, THREATENED TO KILL HIM.

(2) PLAINTIFF CLAIMS, THAT DEMETRIOS ALSO PROVIDED SAID OFFICERS SOTO AND ARRIWELL, WITHOUT PLAINTIFF'S PERMISSION AND/OR CONSENT, AND WITHOUT AUTHORITY OF HIS OWN, PERSONAL PROPERTY OF PLAINTIFF, WHICH WAS PROPERLY STORED IN PLAINTIFF'S BEDROOM, IN WHICH OFFICERS SOTO AND ARRIWELL TOOK
 ** (CONTINUE ON 8 1/2 BY 11, NUMBERED "4a").

IV.A If you are claiming injuries as a result of the events you are complaining about, describe your injuries and state what medical treatment you required. Was medical treatment received?

PLAINTIFF SUFFERED MENTAL AND EMOTIONAL PAIN AND DISTRESS AS WELL AS CONTINUES TO SUFFER. SPECIFICALLY, PLAINTIFF SUFFERS DEPRESSION, INSOMNIA, LOSS OF APPETITE, MOOD SWINGS AND EXTREME FEELINGS OF SADNESS, ESPECIALLY AT NIGHT. HAS BEEN RECEIVING MENTAL HEALTH COUNSELING SINCE INCARCERATION TO PRESENT. ALL AS A DIRECT RESULT OF DEFENDANT'S ACTION HEREIN DESCRIBED.

FROM DEMETRIOS AND SEARCHED WITHOUT PLAINTIFFS PERMISSION, CONSENT, AND WITHOUT AUTHORITY OF THEIR OWN TO DO SO; AND THEN SEIZED PROPERTY WITHIN BELONGING TO PLAINTIFF, AGAIN, WITHOUT PLAINTIFFS CONSENT. DEMETRIOS THEN ASKED SOTO AND ARRINDELL TO ARREST PLAINTIFF FOR SAME.

③ PLAINTIFF CLAIMS, DEMETRIOS, SOTO AND ARRINDELL, WERE WITHOUT LAWFUL AUTHORITY TO SEARCH AND/OR SEIZE PROPERTY MENTIONED IN PARAGRAPH NO. 2 ABOVE, AND POSSESSED NO CONSENT OR PERMISSION OF PLAINTIFF, ALFONZO FORNEY.

④ PLAINTIFF CLAIMS, THAT, AFTER RECEIVING THESE FALSE STATEMENTS AND BEFORE VERIFYING THEIR VALIDITY, SOTO AND ARRINDELL CHARGED PLAINTIFF WITH CRIMINAL POSSESSION OF A FORGED INSTRUMENT, FIRST DEGREE, (N.Y. PENAL LAW 170.30) AND HARASSMENT, (N.Y. PENAL LAW 240.26(1)) WHICH RESULTED IN SOTO AND ARRINDELL ISSUING AN ARREST WARRANT AND/OR OPEN COMPLAINT NUMBERED: 2012-077-03736 FOR PLAINTIFF, ALFONZO FORNEY.

⑤ PLAINTIFF CLAIMS, SOTO AND ARRINDELL KNEW OR SHOULD HAVE KNOWN, THAT THE SEARCH AND/OR SEIZURE WAS ILLEGAL, AS WELL AS THE SUBSEQUENT ARREST OF PLAINTIFF.

⑥ PLAINTIFF CLAIMS, DEMETRIOS KNEW OR SHOULD HAVE KNOWN THAT HE LACKED AUTHORITY TO SEARCH AND/OR SEIZE PROPERTY OF PLAINTIFF, OR THAT HE COULD ALLOW ANOTHER, NAMELY, SOTO AND ARRINDELL, TO SEARCH AND/OR SEIZE PERSONAL PROPERTY BELONGING TO PLAINTIFF.

⑦ PLAINTIFF CLAIMS, ON OR ABOUT THE DATE AND TIMES NOTED IN PARAGRAPH NO. 1 ABOVE, DEFENDANT, SERGEANT BERGAMO, MICHAEL, (HEREINAFTER "SGT. BERGAMO") A SUPERVISING OFFICER OF THE NYPD, WHO WAS PRESENT ON THE "SCENE," KNEW OR SHOULD HAVE KNOWN, THAT HE NOR SOTO NOR ARRINDELL POSSESSED THE AUTHORITY TO SEARCH AND/OR SEIZE ANY PROPERTY BELONGING TO PLAINTIFF; AND SGT. BERGAMO SHOULD HAVE, AS SOTO AND ARRINDELL'S SUPERVISOR, FORBIDDEN THEM FROM SAID ILLEGAL SEARCH AND SUBSEQUENT SEIZURE.

⑧ PLAINTIFF CLAIMS, ON OR ABOUT MAY 20, 2012, AT APPROXIMATELY 8:25 PM, ACTING ON THE FALSE AND MISLEADING INFORMATION OF DEMETRIOS, AND OFFICERS SOTO AND ARZUNDELL, WHICH INCLUDED THE OPEN COMPLAINT NUMBERED 2012-DT-03736, ISSUED BY OFFICERS SOTO AND ARZUNDELL, DEFENDANT, POLICE OFFICER KEVIN DELEON, (HEREINAFTER "DELEON") ARRESTED PLAINTIFF, AND CHARGED HIM WITH 2 ADDITIONAL CHARGES WHICH WERE FELONIES, IN A CRIMINAL COURT COMPLAINT SIGNED AND DATED MAY 21, 2012.

⑨ PLAINTIFF CLAIMS, ON OR ABOUT MAY 20, 2012, AT APPROXIMATELY AND BETWEEN 8:25 PM AND 12:00 AM, MAY 21, 2012, DEFENDANT, SERGEANT DANIEL ZOLLO, (HEREINAFTER "SGT. ZOLLO") A SUPERVISOR OF THE NEW YORK POLICE DEPARTMENT, HAD A RESPONSIBILITY TO ENSURE THAT HIS OFFICERS, INCLUDING, SOTO ARZUNDELL AND SGT. BERGAMO, DID NOT VIOLATE THE CIVIL RIGHTS OF CITIZENS THEY WERE CHARGED WITH PROTECTING, INCLUDING PLAINTIFF AND ALSO THAT ALL ARRESTS PRESENTED TO HIM (SGT. ZOLLO) WERE LAWFUL AND LEGAL. PLAINTIFF CLAIMS, THAT SGT. ZOLLO FAILED IN HIS RESPONSIBILITY BY ALLOWING PLAINTIFF TO BE FALSELY ARRESTED AFTER AN ILLEGAL SEARCH AND SEIZURE, BY SOTO AND ARZUNDELL, AND FALSE ARREST BY DELEON. IN TOTAL, A FALSE ARREST AND IMPRISONMENT.

⑩ PLAINTIFF CLAIMS, DEFENDANT, JOHN DOE, POLICE COMMISSIONER, NYPD, (HEREINAFTER "COMMISSIONER") OWES A DUTY TO THE PEOPLE OF THE CITY OF NEW YORK, INCLUDING PLAINTIFF, WHO ENTRUST COMMISSIONER AND NYPD TO PROTECT HIM FROM BREACHES OF LAW, INCLUDING PROTECTION FROM FALSE ARRESTS AND IMPRISONMENT, AND ILLEGAL SEARCHES AND SEIZURES. ENCOMPASSED IN THAT DUTY, AND RESULTING TRUST, IS AN OBLIGATION TO ENSURE THAT ALL OF ITS CITIZENS ON PATROL, (COPS) INCLUDING SOTO, ARZUNDELL, SGT. BERGAMO, DELEON, SGT. ZOLLO, ARE PROPERLY TRAINED ON ARREST PROCEDURES AND THE LAWS OF SEARCH AND SEIZURES. PLAINTIFF CLAIMS THAT THE COMMISSIONER FAILED TO PROPERLY TRAIN OFFICERS AND SUPERVISORS, INCLUDING SOTO, ARZUNDELL, DELEON, SGT. BERGAMO AND SGT. ZOLLO, AND THAT THIS FAILURE, DIRECTLY RESULTED IN A VIOLATION OF PLAINTIFF'S RIGHTS.

(1) PLAINTIFF CLAIMS, THAT AS A RESULT OF DEFENDANTS' ACTIONS, (COLLECTIVELY) AS OUTLINED IN PARAGRAPH 1 THROUGH 10 ABOVE, HE WAS ARRESTED AND JAILED ON RIVER ISLAND, NEW YORK CITY DEPARTMENT OF CORRECTIONS, ON MAY 21, 2012, AND HELD IN THE CARE CUSTODY AND CONTROL OF NYC DEPARTMENT OF CORRECTIONS, UNTIL AUGUST 27, 2012, AND PLAINTIFF HAS AND HAD A RIGHT TO NOT BE SO IMPRISONED.

(2) PLAINTIFF CLAIMS, THAT ON OR ABOUT AUGUST 27, 2012, AFTER A FULL DAY OF HEARINGS (HELD ON AUGUST 20, 2012) IN WHICH BOTH SOTO AND DELEON ADMITTED TO SEARCHING AND SEIZING PLAINTIFFS' PROPERTY WITHOUT CONSENT, THE KINGS COUNTY CRIMINAL COURT, HONORABLE DESMOND GREEN, JUDGE OF CRIMINAL COURT, RULED THAT THE PROPERTY SEIZURE OF THE ITEMS IN PLAINTIFFS' BEDROOM WERE OBTAINED IN VIOLATION OF PLAINTIFF'S FOURTH AMENDMENT RIGHTS, AND WERE THEREFORE, SUPPRESSED. THIS INCLUDED STATEMENTS MADE BY PLAINTIFF TO LAW ENFORCEMENT.

(3) PLAINTIFF CLAIMS, ON OR ABOUT AUGUST 27, 2012, AS A DIRECT RESULT OF THE RULING OF THE COURT, (DESMOND, J.) THE KINGS COUNTY DISTRICT ATTORNEY'S OFFICE, BY ROGER YU ESQ., AND HILLIARD SCHAEFFER ESQ., ASSISTANT DISTRICT ATTORNEY'S, MOVED TO DISMISS ALL CHARGES BY WAY OF AN ADJOURNMENT IN CONTEMPLATION OF DISMISSAL (ACD).

(4) PLAINTIFF CLAIMS, THAT AS A RESULT OF DEFENDANTS' ACTIONS, AS OUTLINED IN PARAGRAPHS 1 THROUGH 13, PLAINTIFF SUFFERED, AND IS STILL SUFFERING IMPRISONMENT BY REASON OF A FEDERAL WARRANT BEING ISSUED ON MAY 24, 2012, AS A DIRECT RESULT OF DEFENDANTS' SOTO, DEMETRIOS, DELEON, SGT. BERGAMO, ARDINDELL AND SGT. ZOLLO'S ACTIONS, WHICH CAUSED PLAINTIFF TO BE HELD AFTER THE AUGUST 27, 2012, RULING, SO PLAINTIFF COULD BE TURNED OVER TO THE UNITED STATES MARSHALS ON AUGUST 28, 2012.

PLAINTIFF HAS BEEN IN BUREAU OF PRISONS CUSTODY SINCE THEN. (AUGUST 28, 2012).

(5) PLAINTIFF CLAIMS, THAT ON OR ABOUT NOVEMBER 27, 2012, DESPITE THE COURT'S RULING ON

DELEON TESTIFIED IN THE UNITED STATES DISTRICT COURT, DISTRICT OF NEW JERSEY, BEFORE HONORABLE NOEL L. MILLMAN, DISTRICT JUDGE, AT A VIOLATION OF SUPERVISED RELEASE PROCEEDING, THAT HE RECEIVED ILLEGALLY OBTAINED EVIDENCE AND USED SUCH EVIDENCE TO HAVE RAINTIFF FOUND GUILTY.

(16) OFFICER DELEON KNEW, OR SHOULD HAVE KNOWN, THAT BY TESTIFYING ABOUT THIS PREVIOUSLY SUPPRESSED EVIDENCE, HE WOULD CAUSE PLAINTIFF TO BE IMPRISONED; BUT DID SO ANYHOW AND VIOLATED PLAINTIFFS CONSTITUTIONAL RIGHTS.

(17) THIS ACTION FOLLOWED.

V. Relief:

State what relief you are seeking if you prevail on your complaint.

PLAINTIFF SEEKS DECLARATORY JUDGMENT AGAINST ALL 7 DEFENDANTS, THAT HIS CIVIL RIGHTS WERE VIOLATED. PLAINTIFF SEEKS COMPENSATORY JUDGMENT, IN FORM OF MONETARY DAMAGES, AGAINST THE FIRST SIX (6) DEFENDANTS (FORNEY, SOTO, ARRINDELL, DELEON, BERGAMO, AND ZOLLO) IN THE AMOUNT OF TWO-HUNDRED FIFTY THOUSAND DOLLARS ^{EACH} (\$ 250,000.00) FOR LOSS OF PAST AND FUTURE EARNINGS AND COMPENSATORY DAMAGES AS TO DEFENDANT JOHN DOE, COMMISSIONER, NEW YORK POLICE DEPARTMENT IN THE AMOUNT OF FIVE-HUNDRED THOUSAND FOR LOSS OF PAST AND FUTURE EARNINGS, TOTALING \$ 2,000,000.00 (TWO-MILLION) DOLLARS IN COMPENSATORY DAMAGES. PUNITIVE DAMAGES AS TO FIRST SIX (6) DEFENDANTS (SAME AS ABOVE) IN THE AMOUNT OF \$ 750,000.00 (SEVEN HUNDRED FIFTY THOUSAND) DOLLARS, EACH, FOR PAIN AND SUFFERING, LOSS OF LIBERTY AND TO DETER FUTURE CONDUCT OF THIS TYPE. PUNITIVE DAMAGES AS TO JOHN DOE POLICE COMMISSIONER, NYPD, IN THE AMOUNT OF TWO-MILLION (\$ 2,000,000.00) DOLLARS FOR FAILING TO PROPERLY TRAIN HIS STAFF, WHICH DIRECTLY RESULTED IN PLAINTIFFS RIGHTS BEING VIOLATED, PAIN AND SUFFERING, LOSS OF LIBERTY AND TO DETER FUTURE CONDUCT OF THIS TYPE. TOTAL: \$ 8,000,000.00

I declare under penalty of perjury that on DECEMBER 08, 2013, I delivered this

(Date)

complaint to prison authorities to be mailed to the United States District Court for the Eastern

District of New York.

Signed this 08 day of DECEMBER, 2013. I declare under penalty of

perjury that the foregoing is true and correct.

A. Forney 12/08/13
Signature of Plaintiff

ALLENWOOD Federal Correction Institution
Name of Prison Facility

ALFONZO FORNEY REG. No. 61513050

P.O. Box 2000

WHITE DEER PA 17887
Address

61513 050
Prisoner ID#